

REMARKS

Claims 1, 3, 9, 12, 16, 17 and 20 were acted upon in the aforesaid Office Action. No new claim has been added and claim 12 has been canceled leaving claims 1, 3, 9, 16, 17 and 20 for consideration.

Claim 1 stands rejected under 35 U.S.C. 103(a) as unpatentable over USP 6,267,772-Mulhauser et al. and USP 4,060,089-Noiles.

Claim 1 has been amended to define the body of the encapsulation device as "having a generally annular frame supporting therein a solid shell-like metal cover portion". The corresponding cover portion (12) of the Mulhauser device appears to be of "pliable tissue infiltratable fabric", or a "mesh fabric (34)". Col. 3, ll. 4 and 41; col. 5, l. 25.

Noiles lacks a generally annular frame and a cover portion integral with the frame and disposed within the frame.

Claim 1 is further limited to the cover portion being bowed proximally to always provide a bowed proximal end profile for engagement by a complimentary-shaped tool head, and the cover being adapted to maintain that profile during engagement of the body with the tool head.

While Mulhauser mentions that his device may be formed with a "slight convexity or concavity", it appears that it is of "pliable tissue" or is a "mesh fabric" and would not therefore always extend further proximally than the annular frame.

The metal construction of the cover portion is shown in Figs. 3 and 4, 10-12, and 16.

Accordingly, it appears that claim 1, as extensively amended, defines a device not taught or suggested by Mulhauser and Noiles.

Claims 3, 9, 16, and 17 depend from claim 1 and would appear to be allowable, at least through dependency.

Claim 20 stands rejected under 35 U.S.C. 103(a) as unpatentable over Mulhauser and USP 6,533,454-Kaikkonen et al.

Claim 20 had been amended similarly to claim 1, so as to limit the leg structure to comprising a plurality of elongated leg members, each provided with a central channel therein, the channel being open on a proximal side of the frame member and closed at a distal end thereof. The body comprises a peripheral circular frame portion and a shell-like metal cover portion fixed within the frame portion and of a configuration bowed proximally to provide a bowed proximal surface, such that the cover portion provides a central portion which always extends proximally further than a peripheral portion of the cover portion.

In view of the amendments thereto, it appears that claim 20 now distinguishes over the cited art and should be deemed allowable thereover.

In summary, allowance of claims 1, 3, 9, 16, 17 and 20 is most respectfully requested.

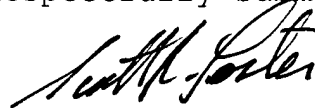
Applicants are also submitting herewith a substitute DECLARATION AND POWER OF ATTORNEY document which states that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56, as requested by the Examiner.

- 7 -

In the event that any fees may be required in this matter,
please charge the same to Deposit Account No. 16-0221.

Thank you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott R. Foster". The signature is fluid and cursive, with the first name "Scott" and last name "Foster" clearly distinguishable.

Scott R. Foster, Esq.

Registration No. 20,570

Pandiscio & Pandiscio, P.C.

470 Totten Pond Road

Waltham, MA 02451-1914

Tel. No.: (781) 290-0060

IM/SCAN1CON.AMD3

SCAN-1 CON